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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIM M. HOBEROCK, C. TROY JENSEN, and
DAVID M. PAYNE

Appeal 2009-007331
Application 09/976,068
Technology Center 2400

Before LANCE LEONARD BARRY, JOHN A. JEFFERY, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's second non-final decision rejecting claims 1-7, 9-16, and 21-28. Claims 8 and 17-20 have been cancelled. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We Affirm.

INVENTION

Appellants' invention is directed to "computers, computer terminals and resources that are accessed through a computer or computer terminal that are subject to security measures in which the computer, terminal or resource is automatically secured and locked after a measured period of inactivity requiring the user to demonstrate authorization to regain access to the computer, terminal or resource." (Spec. 1, para. [0004])

Claim 9 is illustrative:

9. A method for controlling use of a piece of office equipment or a particular resource available through that piece of equipment, said method comprising:

timing a period during which said equipment receives no user input through a keyboard or mouse, and placing said equipment or a resource available through said equipment into a locked state upon elapse of a pre-determined period during which no user input through a keyboard or mouse is received;
and

re-enabling operation of said piece of office equipment or a resource available through that office equipment to an authorized user upon presentation of an identifier of said authorized user to a sensor of a lock control device connected to said piece of office equipment, wherein said sensor senses and recognizes said identifier to identify said authorized user.

PRIOR ART

The Examiner relies on the following prior art references as evidence of unpatentability:

Lopes	US 6,189,105 B1	Feb. 13, 2001
Kolls	US 6,609,102 B2	Aug. 19, 2003
Gulick	US 6,823,451 B1	Nov. 23, 2004

Appellants appeal the following rejections:

1. Claims 1-3, 6, 9-11, 14, and 16 stand rejected under 35 U.S.C. § 102(a) as anticipated by Lopes.
2. Claims 21, 22, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lopes.
3. Claims 4, 5, 7, 12, 13, 15, 24, and 28 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Lopes and Gulick.
4. Claims 23 and 27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Lopes and Kolls.

CLAIM GROUPING

Based upon Appellants' arguments, we select claim 9 as representative of claims 1-3, 6, 9-11, 14, and 16. (App. Br. 13). We select claim 22 as representative of claims 21, 22, 25, and 26. (App. Br. 15). We also select claim 23 as representative of claims 23 and 27. (App. Br. 19). *See* 37 C.F.R. § 41.37(c)(1)(vii). We address claims 4, 5, 7, 12, 13, 15, 24, and 28 *infra*.

We address the issues presented in this appeal seriatim:

ISSUE

Claims 1-3, 6, 9-11, 14, and 16

Under § 102, did the Examiner err in finding that Lopes discloses placing “equipment into a locked state upon elapse of a predetermined period during which no user input through a keyboard or mouse is received,” within the meaning of representative claim 9?

FACTUAL FINDINGS (FF)

1. Lopes discloses a timer associated with the computer is operable to expire upon non-receipt of an authorizing code from an authorized user of the computer. Receipt of a coded message from an authorized user is determined to indicate that the authorized user is within a proximity of the computer. (Col. 2, ll. 21-24, 39-41; Fig. 4).

2. Lopes discloses that a user’s “[p]resence may determined in any number of ways e.g., by detection of a keypress on the keyboard.” (Col. 6, ll. 45-47, Fig. 4 step 484).

3. Fig. 4 of Lopes illustrates that if Presence is not detected (“NO”), the next step is to “Disable Computer Function.” (Fig. 4, flowchart blocks 484, 498).

4. Lopes discloses that “the computer function disabled in step 206 may operate as a screen saver to prevent visual display of information on the display 112 when the proximity badge 100 is not in the proximity of the proximity reader 120.” (Col. 4, ll. 52-59).

5. Lopes further discloses that “[a]lternatively or additionally, the computer may enter and remain in a standby mode operation and lock out any keyboard entry until the authorized user returns to the room as detected by the proximity reader.” (Col. 4, ll. 56-59).

ANALYSIS

Based upon our review of the record, we find Appellants' argument unconvincing that Lopes does not disclose placing equipment into a locked state upon elapse of a predetermined period during which no user input through a keyboard or mouse is received. (App. Br. 14; Claim 9).

Appellants contend that the detection of a keypress is to verify the presence of a person already indicated by detection of the person's authorization using the proximity detector and proximity card or badge. According to Appellants, Lopes primarily teaches the continuous detection of a proximity card as a requirement for granting system access. “These teachings of Lopes have *nothing whatsoever to do with locking the computer or other resource in the first place based on the absence of input through a mouse or keyboard.*” (App. Br. 15, Reply Br. 4)(emphasis added).

We disagree. As shown in Fig. 4, step 484 determines the presence of a user. (FF 3). According to one embodiment, Lopes discloses that a user's presence may be determined by the *detection of a keypress on the keyboard.* (FF 2). Thus, if the presence of a user is detected by a keypress on the keyboard (at flowchart box 484, Fig. 4), then a timer loop is entered to search for the receipt of a coded message (FF 1; *see also* flowchart boxes 490, 494, and 496; Fig. 4).

The coded message corresponds to a binary coded message from a proximity badge. (Col. 4, ll. 23-24; *see also* col. 2, ll. 27-45). If no valid coded message is detected and the MAX TIME is exceeded (flowchart box 496, Fig. 4), then the computer function is disabled (i.e., placed into a locked state) (FF 3; Fig. 4, flowchart box 498), whereupon the flowchart loops back to once again determine if a person is present by detection of a keypress on the keyboard (flowchart box 484; col. 6, l. 63 – col. 7, l. 1). If no keypress is detected, then the computer function is disabled again. (Flowchart box 498).

We particularly observe that “no user input through a keyboard or mouse” (claim 9) can be *received* during the Lopes timer loop shown in Fig. 4 because the equipment of Lopes is polling for a *coded message* during the timer loop *instead of a keypress or a mouse input*. Therefore, because Lopes discloses timing a predetermined period (until MAX TIME) where the coded message is searched for (*that also corresponds to a period in which no user input through a keyboard or mouse can be received*), we find the aforementioned limitations disputed by Appellants (claim 9) broadly but reasonably read on Lopes’ Figure 4 and supporting discussion. (FF 1-5).

Therefore, we find Lopes discloses “placing said equipment or a resource available through said equipment into a locked state upon elapse of a pre-determined period during which no user input through a keyboard or mouse is received,” within the meaning of representative claim 9.

Accordingly, we sustain the Examiner’s anticipation rejection of claim 9, as well as claims 1-3, 6, 10, 11, 14, and 16 which fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claims 21, 22, 25, and 26

Appellants contend that Lopes does not teach or suggest initially unlocking a piece of office equipment with a password, and then timing a “second predetermined period of time” during which the password need not be re-entered if another identifier is used. (App. Br. 17, Reply Br. 5)

Appellants admit that “it is known to use a password to gain access to a computer” (App. Br. 18). However, Appellants contend that Lopes only teaches the continuous detection of a proximity card authorizing a user to operate a computer. In contrast, Appellants’ state that their system does not use or rely on a proximity card, but more flexibly secures a computer using a password and an alternative user identifier that can, for a specific time, be used in place of a password. (*Id.*). Appellants further contend that even if Lopes did teach a timer to monitor the period of time before placing the computer in a locked state, that is not the entirety of what is recited in claims 22 and 26. (Reply Br. 5).

The Examiner notes that Lopes prefers the use of passwords in addition to continuous authorization. (Ans. 6).

Thus, the issue before us is as follows:

ISSUE

Under § 103, did the Examiner err in determining that Lopes would have taught or or suggested initially unlocking a piece of office equipment with a password and timing a “second predetermined period of time” during which the password need not be re-entered if another identifier is used, within the meaning of representative claim 22?

FACTUAL FINDINGS

6. Lopes teaches that “the present invention does not preclude and in fact prefers the use of passwords *in addition to* the continuous authorization in accordance with principles of the present invention to provide increased security.” (Col. 8, ll. 13-16) (emphasis added).

7. Lopes’ Fig. 4 illustrates that if a valid coded message is received (494) from a proximity badge, the computer function is enabled (492). (Fig. 4; *see also* col. 2, ll. 27-45; col. 4, ll. 23-24).

8. Lopes expressly teaches that using a unique password to prevent unauthorized access to a computer was “well known” in the art. (Col. 1, ll. 17-19; Fig. 8).

ANALYSIS

We begin our analysis by ascertaining all of the teachings of Lopes. As discussed above, we find that Lopes discloses enabling the computer function (unlocking the computer) if a valid coded message is received from a proximity card or badge. (FF 7). In addition, as noted by the Examiner (Ans. 6, 11), Lopes prefers the use of passwords *in addition to* the continuous authorization method of Lopes. (FF 6).

Appellants admit that “it is known to use a password to gain access to a computer” (App. Br. 18). We agree with the Examiner (Ans. 6-7) that Appellants’ claimed “presentation of an identifier of an authorized user to a sensor” (claim 22) would have been taught or suggested by Lopes’ coded message that corresponds to a binary coded message from a proximity badge. (Col. 4, ll. 23-24; *see also* col. 2, ll. 27-45). We further observe that

Lopes expressly teaches that using a unique password to prevent unauthorized access to a computer is well known in the art. (FF 8).

On this record, we find the additional limitation of a password that is reentered after the elapse of a (second) predetermined period of time (within the meaning of Appellants' claim 22) is nothing more than a "predictable use of prior art elements according to their established functions" and, as such, we find claiming a mere plurality of prior art elements (password entries) is not a patentable distinction over the prior art of record. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, (2007). The Supreme Court has provided clear guidance regarding the issue of obviousness:

Section 103 forbids issuance of a patent when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."

KSR, 550 U.S. at 405.

This reasoning is applicable here. Therefore, we are in accord with the Examiner determination that the differences between the claimed invention and the prior art are such that the subject matter of claim 22 would have been obvious to an artisan. Given the evidence before us (FF 6-8), we find no reversible error in the Examiner's obviousness rejection of representative independent claim 22. Accordingly, we sustain the Examiner's § 103 rejection of claim 22 as well as claims 21, 25, and 26 which fall therewith. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claims 4, 5, 7, 12, 13, 15, 24, and 28

Appellants contend that these dependent claims are patentable for the same reasons previously presented for the corresponding independent claims (claims 1 and 9). (App. Br. 19).

Therefore, for the same reasons discussed above regarding representative claim 9 (claim 1 falling therewith), we find no reversible error in the Examiner's obviousness rejection of claims 4, 5, 7, 12, 13, 15, 24, and 28. Accordingly, we sustain the Examiner's §103 rejection of claims 4, 5, 7, 12, 13, 15, 24, and 28. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Independent claims 23 and 27

Appellants contend that the rejection of claim 23 should not be sustained for at least the same reasons previously discussed with respect to the other independent claims. (App. Br. 20). However, we find no reversible error in the Examiner's rejection of independent claims 1, 9, 22, and 26 for the reasons discussed *supra*.

Appellants further contend that the secondary Kolls reference merely teaches the traditional use of a credit card as a means for paying for services which are then allowed in an automated environment. (App. Br. 21).

Appellants aver that Lopes and Kolls "did not include the idea of using a credit card to identify a pre-authorized user of office equipment, outside the context of a financial transaction." (App. Br. 21-22; *see also* Reply Br. 8).

The Examiner contends that Kolls' card is equivalent to a smart card as an ID used to access a system. (Ans. 12)

Thus, the issue before us is as follows:

ISSUE

Under § 103, did the Examiner err in determining that the cited combination of Lopes and Kolls would have taught or suggested an identifier of an authorized user, within the meaning of representative claim 23?

FACTUAL FINDINGS

9. Kolls teaches that “a credit card terminal provides a means for indicating to external peripheral devices that a set of satisfying criteria has been met and allowance of system use is granted (an enabling signal).” (Col. 5, ll. 39-42). Kolls thus determines if vending machine use is authorized. (Fig. 1, flowchart blocks 30 and 40).

10. Kolls teaches:

Vending machines can include copiers such as copiers 602A-602F, phone data-port combinations such as phone 648, facsimile machines such as fax 604A-604B, and printers such as printer 104 and printer 69A-612G. Other types of vending machines can include, laptop/palm computer print stations such as laptop print station 646, microfiche devices (not shown), projection equipment (not shown), scanners (not shown), and digital cameras (not shown). Additionally, peripherals such as personal computers (PC) 102/630, personal computer terminal (NET PC) 630, and network computer (NC) 630, as well as traditional vending machines can be referred to generally as vending machines.

(Col. 5, ll. 49-60).

11. Kolls teaches:

Vended products from a vending machine can include usage time, device usage count, printed output, copies, printed pages, fax transmissions, and other related

supplies (e.g. food, beverage, staplers, film, rubber bands, paper clips, note pads, computer disks, pens, and pencils).
(Col. 6, ll. 34-38).

ANALYSIS

Based upon our review of the evidence, we find unpersuasive Appellants contention that Lopes and Kolls “did not include the idea of using a credit card to identify a pre-authorized user of office equipment, outside the context of a financial transaction.” (App. Br. 21-22; *see also* Reply Br. 8).

In particular, we note that Kolls teaches that “a credit card terminal provides a means for indicating to external peripheral devices that a set of satisfying criteria has been met and allowance of system use is granted.” According to one embodiment, Kolls determines if vending machine use is authorized. (FF 9).

Kolls further discloses that vending machines include copiers, phones, facsimile machines, and printers (i.e., office equipment), as well as traditional vending machine items. (FF 10-11). Therefore, we find the Examiner’s proffered combination of Lopes and Kolls teaches or at least suggests the use of a credit card as an identifier of an authorized user of the system, within the meaning of representative claim 23.

Accordingly, we sustain the Examiner’s §103 rejection of claim 23 and claim 27 that falls therewith. *See* 37 C.F.R. § 41.37(c)(1)(vii).

DECISION

We affirm the Examiner's § 102 rejection of claims 1-3, 6, 9-11, 14, and 16.

We also affirm the Examiner's § 103 rejections of claims 4, 5, 7, 12, 13, 15, and 21-28.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1) (2009).

ORDER

AFFIRMED

pgc

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